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10/501,097

07/09/2004

Kazuhiro Yamada

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EXAMINER

CHUO, TONY SHENG HSIANG

ART UNIT

PAPER NUMBER

1795

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/501,097	<b>Applicant(s)</b> YAMADA, KAZUHIRO	
	<b>Examiner</b> Tony Chuo	<b>Art Unit</b> 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 1-17, 23, and 24 are currently pending. Claims 18-22 have been cancelled. The previous 112 rejection of claims 17, 19, and 20 is withdrawn. The amended claims do not overcome the previously stated 103 rejections. Therefore, upon further consideration, claims 1-17, 19, 20, 23, and 24 are rejected under the following new 112 rejection and previously stated 103 rejections. This action is made FINAL as necessitated by the amendment.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "water storage unit adapted to supply water to the fuel cell at least during a start-up of the fuel cell" is not supported by the specification. The specification discloses that during a cold start-up mode, antifreeze solution, admitted to the hot medium flow passage 25, thaws ice that is

formed when water is condensed in the water tank 5. Therefore, the water tank 5 cannot supply water to the fuel cell during a start-up of the fuel cell because ice is formed in the water tank.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 7, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanbara et al (JP 2000-149970) in view of Ozeki et al (JP 2002-367646).

The Kanbara reference discloses a fuel cell system comprising: a fuel cell “1” cooled by cooling water; a water tank “4” adapted to supply water to the fuel cell; a circulation flow passage “16” adapted to allow the cooling water to be circulated from the fuel cell where the cooling water cooled the fuel cell to the water tank; a heater “15” disposed in the circulation flow passage to heat the cooling water; and a hot medium flow passage “16” that allow the heated cooling water to circulate around the perimeter of the water tank (See paragraphs [0012],[0013] and Drawing 1). It also discloses a hot medium flow passage “16” that has an inlet located at a higher position than an outlet (See Drawing 1). It also discloses cooling water that is heated by the heater “15” that

heats the fuel cell and heats the water in the water tank while flowing through the hot medium flow passage (See paragraph [0013]).

Examiner's note: It is inherent that the hot medium flow passage "16" is conforming, in a contacting relationship, to a water contact section on an outside of the water tank to allow the cooling water to flow around the outside of the water tank. In addition, the water tank "4" is capable of supplying water to the fuel cell during a start-up of the fuel cell. For example, if the water in the water tank "4" is detected to be not solidified during start-up, then the water tank "4" can directly supply water to the fuel cell.

However, Kanbara et al does not expressly teach a fuel cell that is cooled by antifreeze. The Ozeki reference discloses a cooling pipe "4" that passes through the inside of the fuel cell "1" that circulates either cooling water or an antifreeze solution (See paragraph [0059]).

Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because the disclosure of Ozeki indicates that an antifreeze solution is a suitable material for use as a thermal medium for cooling a fuel cell. The selection of a known material based on its suitability for its intended use has generally been held to be *prima facie* obvious (MPEP §2144.07). As such, it would be obvious to use antifreeze.

6. Claims 1, 7, 13, 16, 17, 19, 20, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (JP 2000-164233) in view of Kanbara et al (JP 2000-149970).

The Saito reference discloses a fuel cell system comprising: a fuel cell “1” that is cooled by antifreeze solution; a moisture supply means “26” consisting of a water tank and a pump that is adapted to supply water to the fuel cell at least during a start-up of the fuel cell; an antifreeze circulation flow passage; an antifreeze heating means “11” disposed in the antifreeze circulation flow passage to heat the antifreeze solution; and a second antifreeze circulation flow passage that allows the antifreeze solution to be circulated that includes: the fuel cell “1”, the hot medium flow passage; and a radiator disposed “13” in the antifreeze circulation flow passage adapted to radiate heat from the antifreeze solution, wherein the second antifreeze circulation flow passage branches away from the first antifreeze circulation flow passage (See Drawing 3 and paragraphs [0058],[0060], [0071],[0090]). It also discloses an antifreeze bypass valve “16” that is used to avoid heat dissipation from the radiator “13” at the time of heating during startup, wherein after the system startup is operated steadily, the antifreeze bypass valve is closed (See paragraphs [0060],[0061]).

However, Saito et al does not expressly teach an antifreeze circulation flow passage that is adapted to allow the antifreeze solution to be circulated from the fuel cell to the water storage unit; a hot medium flow passage disposed around and conforming, in a contacting relationship, to a water contact section on an outside of the water storage unit to allow the antifreeze solution, heated by the antifreeze heater, to flow around the outside of the water storage unit, wherein the hot medium flow passage has an antifreeze inlet, through which the antifreeze solution flows in, that is located at a higher position than an antifreeze solution outlet, through which the antifreeze solution

flows out, wherein the antifreeze solution heated by the antifreeze heater heats the fuel cell and heats the water in the water storage unit while flowing through the hot medium flow passage; and a water temperature detector adapted to detect a water temperature in the water storage unit.

The Kanbara reference discloses a circulation flow passage/hot medium flow passage "16" that is adapted to allow a heated cooling medium to be circulated from the fuel cell "1" to the water tank "4" to heat the water in the water tank, wherein the hot medium flow passage is disposed around the perimeter of the water tank and has an inlet located at a higher position than an outlet (See paragraphs [0012],[0013] and Drawing 1). It also discloses a control unit that judges the temperature of the water that is solidified in the water tank (See paragraph [0013]). Examiner's note: It is inherent that the hot medium flow passage "16" is conforming, in a contacting relationship, to a water contact section on an outside of the water storage unit to allow the cooling medium to flow around the outside of the water tank.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Saito fuel cell system to include an antifreeze circulation flow passage that is adapted to allow the antifreeze solution to be circulated from the fuel cell to the water storage unit; a hot medium flow passage disposed around and conforming, in a contacting relationship, to a water contact section on an outside of the water storage unit to allow the antifreeze solution, heated by the antifreeze heater, to flow around the outside of the water storage unit, wherein the hot medium flow passage has an antifreeze inlet, through which the antifreeze solution flow in, that is

located at a higher position than an antifreeze solution outlet, through which the antifreeze solution flows out, wherein the antifreeze solution heated by the antifreeze heater heats the fuel cell and heats the water in the water storage unit while flowing through the hot medium flow passage; and a water temperature detector adapted to detect a water temperature in the water storage unit in order to allow the fuel cell system to be stabilized and put into operation under low temperature environments where water in the water tank can be frozen during startup (See paragraph [0018]).

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (JP 2000-164233) in view of Kanbara et al (JP 2000-149970) as applied to claim 1 above, and further in view of Koizumi et al (US 4818845).

However, Saito et al as modified by Kanbara et al does not expressly teach a suction conduit heater section disposed around a periphery of a water suction conduit of the water pump to allow the heated antifreeze solution to flow. The Koizumi reference discloses an electric heater "24" disposed around a periphery of a water suction pipe "23" of the bubble pump "20" (See Figure 1 and column 3 line 62 to column 4 line 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Saito/Kanbara fuel cell system to include a suction conduit heater section disposed around a periphery of a water suction conduit of the water pump to allow the heated antifreeze solution to flow in order to prevent the water suction conduit and the hot medium flow passage inlet from freezing under cold temperature environments.



8. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (JP 2000-164233) in view of Kanbara et al (JP 2000-149970) as applied to claim 1 above, and further in view of Gerstmann et al (US 5772113).

However, Saito et al as modified by Kanbara et al does not expressly teach an antifreeze rectification plate disposed in the hot medium flow passage to guide flow of the antifreeze solution; a hot medium flow passage that is disposed along at least a portion of an inner wall of the water storage unit; and a hot medium flow passage that is formed in a plurality of flow passage components that are stacked and water tightly sealed, and wherein the plurality of flow passage components form at least a portion of a side wall of the water storage unit, wherein the hot medium flow passage is formed in a spiral shape. The Gerstmann reference discloses a coolant-to-water heat exchanger "55" that surrounds the water storage tank "31" wherein hot coolant passes through the coil "80" that is wrapped around the tank in a helical fashion or multiple parallel coils (See column 4, lines 50-62 and Figure 2A).

Examiner's note: The antifreeze rectification plate is construed as the flattened part of the tubing that wraps around the water storage tank taught by Gerstmann et al (See column 2, lines 5-6). The stacked hot medium flow passage components that forms at least a portion of a side wall of the water storage unit is construed as the parallel coils wrapped around the water tank taught by Gerstmann et al.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Saito/Kanbara fuel cell system to include an antifreeze rectification plate disposed in the hot medium flow passage to guide flow of

the antifreeze solution; a hot medium flow passage that is disposed along at least a portion of an inner wall of the water storage unit; and a hot medium flow passage that is formed in a plurality of flow passage components that are stacked and water tightly sealed, and wherein the plurality of flow passage components form at least a portion of a side wall of the water storage unit, wherein the hot medium flow passage is formed in a spiral shape in order to more efficiently transfer the heat from the hot medium flow passages to the water tank by improving the thermal contact between the flow passages and the water tank.

9. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (JP 2000-164233) in view of Kanbara et al (JP 2000-149970) as applied to claim 1 above, and further in view of Breault et al (US 6699612).

However, Saito et al as modified by Kanbara et al does not expressly teach a switch-over unit adapted to expel the antifreeze solution from the hot medium flow passage to allow air to be admitted to the hot medium flow passage in place of the expelled antifreeze solution; and an antifreeze accommodating unit that, when the hot medium flow passage is admitted with air in place of the antifreeze solution, allows the air to expel the antifreeze solution such that the expelled antifreeze solution is accommodated. The Breault reference discloses a drain vent “160” and drain valve “158” that are controlled to admit air to assist in the drainage of the antifreeze coolant and a coolant accumulator “64” that allow the air to expel the antifreeze solution such that the expelled antifreeze solution is accommodated (See column 9, lines 45-52 and Figure 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Saito/Kanbara fuel cell system to include a switch-over unit adapted to expel the antifreeze solution from the hot medium flow passage to allow air to be admitted to the hot medium flow passage in place of the expelled antifreeze solution; and an antifreeze accommodating unit that, when the hot medium flow passage is admitted with air in place of the antifreeze solution, allows the air to expel the antifreeze solution such that the expelled antifreeze solution is accommodated in order to avoid degradation of the antifreeze coolant in the start-up heat exchanger by draining the antifreeze coolant.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (JP 2000-164233) in view of Kanbara et al (JP 2000-149970) and Breault et al (US 6699612) as applied to claim 8 above, and further in view of Yamada et al (US 5482790).

However, Saito et al as modified by Kanbara et al and Breault et al does not expressly teach air to be admitted to the hot medium flow passage in place of the antifreeze solution that includes combustion gas resulting from a combustor disposed in the antifreeze heater. The Yamada reference discloses air heated by mixing the combustion gas from the reforming unit with the air that is fed to the cooling plate "12d" which is part of the cooling flow passage (See column 15, lines 27-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Saito/Kanbara/Breault fuel cell system to include air to be admitted to the hot medium flow passage in place of the antifreeze

solution that includes combustion gas resulting from a combustor disposed in the antifreeze heater in order to shorten the period of time that elapses during the initial time until the generation of electric energy is started with the fuel cell by using combustion gas to heat the fuel cell (See column 15, lines 37-44).

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (JP 2000-164233) in view of Kanbara et al (JP 2000-149970) and Breault et al (US 6699612) as applied to claim 8 above, and further in view of Roberts et al (US 2001/0055707).

However, Saito et al as modified by Kanbara et al and Breault et al does not expressly teach an air storage unit storing air to be introduced into the hot medium flow passage in place of the antifreeze solution. The Roberts reference discloses purging the coolant water passages by circulating compressed air through them (See paragraph [0049]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Saito/Kanbara/Breault fuel cell system to include an air storage unit storing air to be introduced into the hot medium flow passage in place of the antifreeze solution in order to speed the draining of the antifreeze solution from the hot medium flow passage by using compressed air.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (JP 2000-164233) in view of Kanbara et al (JP 2000-149970) and Breault et al (US 6699612) as applied to claim 8 above, and further in view of Bonville (US 6248462).

However, Saito et al as modified by Kanbara et al and Breault et al does not expressly teach an antifreeze temperature detector adapted to detect the temperature of the antifreeze solution in the hot medium flow passage wherein when the temperature of the antifreeze solution is detected to fall in a value higher than 0 C and lower than  $\alpha$ .C (.alpha.: heat capacity reference temperature of the antifreeze solution), the antifreeze temperature detector controls the hot medium change-over unit so as to allow the air to be admitted to the hot medium flow passage in place of the antifreeze solution. The Bonville reference discloses a thermal management apparatus "30" that includes antifreeze temperature sensors that detect the temperature of the antifreeze solution in the coolant flow channels wherein the antifreeze solution transfers a portion of its heat to the fuel cell assemblies and after which the antifreeze flow are exhausted from the fuel cell stack (See column 6, lines 13-25, column 7 line 67 to column 8 line 3).

Examiner's note: The thermal management apparatus taught by Bonville is capable of detecting when the temperature of the antifreeze solution falls in a value higher than 0°C and lower than  $\alpha$  C to control the hot medium change over unit so as to allow the air to be admitted to the hot medium flow passage in place of the antifreeze solution.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Saito/Kanbara/Breault fuel cell system to include an antifreeze temperature detector adapted to detect the temperature of the antifreeze solution in the hot medium flow passage wherein when the temperature of

the antifreeze solution is detected to fall in a value higher than 0 C and lower than  $\alpha.C$  ( $\alpha$ .: heat capacity reference temperature of the antifreeze solution), the antifreeze temperature detector controls the hot medium change-over unit so as to allow the air to be admitted to the hot medium flow passage in place of the antifreeze solution in order to prevent the antifreeze solution from contaminating the reactant gases after the fuel cell stack is heated above freezing.

13. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (JP 2000-164233) in view of Kanbara et al (JP 2000-149970) and Breault et al (US 6699612) as applied to claim 8 above, and further in view of Nelson (US 5421475).

However, Saito et al as modified by Kanbara et al and Breault et al does not expressly teach a water storage unit that includes a double-layer structure composed of an inside tank component and an outside tank component, between which the hot medium flow passage is formed, and a heat insulation member with a specific gravity greater than the air and less than the antifreeze solution is moveably received in the hot medium flow passage; wherein the heating member includes a plurality of members smaller in size than a flow sectional area of the hot medium flow passage formed between the inside tank component and the outside tank component. The Nelson reference discloses a foam insulation material that is formed into a movable annular collar "22" between the inner wall surface of the outer shell and the outer wall surface of the inner water tank and tapes "50" that are smaller in size than a flow sectional area of

the annular space between the outer shell and inner water tank (See claim 6 and Figure 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Saito/Kanbara/Breault fuel cell system to include a water storage unit that includes a double-layer structure composed of an inside tank component and an outside tank component, between which the hot medium flow passage is formed, and a heat insulation member with a specific gravity greater than the air and less than the antifreeze solution is moveably received in the hot medium flow passage; wherein the heating member includes a plurality of members smaller in size than a flow sectional area of the hot medium flow passage formed between the inside tank component and the outside tank component in order to further improve the thermal efficiency of the water tank by insulating the space between the double layer structure of the tank.

### ***Response to Arguments***

14. Applicant's arguments filed 4/14/08 have been fully considered but they are not persuasive.

The applicant argues that in contrast, Kanbara asserted in the Office Action to teach the water storage unit and the water contact section as claimed (referring to machine translated paragraphs 0012 and 0013). However, in Kanbara, water is supplied from the auxiliary tank 7 to the fuel cell during a start-up of the fuel cell. In contrast, auxiliary tank 7 is not heated by a hot medium flow passage having the above-

described property. The auxiliary tank 7 is heated instead by the heater 11. Accordingly, the auxiliary tank 7 is not equipped with any hot medium flow passage disposed on an outside of the tank 7 as recited in claim 1.

In response to the applicant's argument, the examiner contends that the water tank 4 taught by Kanbara et al is at least capable of supplying water to the fuel cell during a start-up of the fuel cell if the water in the water tank is detected to be not solidified. In addition, the applicant is reminded that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

The applicant also argues that Saito does not remedy the deficiencies of Kanbara identified above in the preceding paragraph. It is contended by the examiner that the Saito water tank "26" is capable of supplying water to the fuel cell during a start-up of the fuel cell.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Chuo whose telephone number is (571)272-0717. The examiner can normally be reached on M-F, 7:00AM to 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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TC

/PATRICK RYAN/  
Supervisory Patent Examiner, Art Unit 1795